

CHAPTER 15.2

ELIMINATING SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT *

Section 15.2-1. Title.

This Article shall be known as the City of Laurel Smokefree Air Act of 2008.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15.2-2. Findings and Intent.

The Mayor and City Council of the City of Laurel does hereby find that:

The 2006 U. S. Surgeon General’s Report, “The Health Consequences of Involuntary Exposure to Tobacco Smoke”, has concluded that (1) secondhand smoke exposure causes disease and premature death in children and adults who do not smoke; (2) children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks, and that smoking by parents causes respiratory symptoms and slows lung growth in their children; (3) exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and caused coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smokefree workplaces is the only effective way to ensure that secondhand smoke exposure does not occur in the workplace, because ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; and (6) evidence from peer-reviewed studies shows that smokefree policies and laws do not have an adverse economic impact on the hospitality industry. (U. S. Department of Health and Human Services: “The Health Consequences of Involuntary Exposure to Tobacco

***Editor’s Note**—Ordinance No. 1525-2008, §§ 1-20, adopted November 4, 2008, did not specify the manner of codification, but was included herein as Ch. 15.2, §§ 1-20, at the editor’s discretion.

Smoke: A Report of the Surgeon General.” U. S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006).

Unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or “e-

cigarettes,” closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of electronic cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethyl glycol, a toxic chemical used in antifreeze. The FDA’s testing also suggested that “quality control processes used to manufacture these products are inconsistent or non-existent.” According to a more recent study, electronic cigarette emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke. Electronic cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions. The World Health Organization (WHO) recommends that electronic smoking devices not be used indoors, especially in smoke free environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smokefree laws.

Source: Ordinance No. 1628-2015, 10-20-2015

The smoking of tobacco, hookahs, or marijuana and the use of electronic cigarettes are forms of air pollution and constitute both a danger to health and a material public nuisance.

Source: Ordinance No. 1628-2015, 10-20-2015

Accordingly, the City of Laurel finds and declares that the purpose of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in public places and place of employment; and (2) to guarantee the right of nonsmokers to breath smokefree air, and to recognize that the need to breath smokefree air shall have priority over the desire to smoke.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15.2-3. Definitions.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section:

- A. “Bar” means as establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- B. “Business” means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered, and private clubs.

CODE

- C. “Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under any other product name of descriptor
- D. “Employee” means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.
- E “Employer” means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
- F “Enclosed Area” means all space between floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- G “Health Care Facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- H “Hookah” means a water pipe and any associated products and devices which are used to produce fumes, smoke, and/or vapor from the burning of material including, but not limited to, tobacco, shisha, or other plant matter.
- I “Place of Employment” means an area under the control of a public or private employer that employees normally frequent during the course of employment, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles. A private residence is not a “place of employment” unless it is used as a child care, adult day care, or health care facility.
- J “Playground” means any park or recreational area designed in part to be used by children that has play or sports equipment installed or that has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds or on City grounds.
- K “Private Club” means an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only

CODE

sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

- L “Public Event” means an event which is open to and may be attended by the general public, including, but not limited to, such events as concerts, fairs, farmers’ markets.
- M. “Public Place” means an enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, gaming facilities, health care facilities, hotels and motels, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private club is a “public place” when being used for a function to which the general public is invited. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.
- N “Restaurant” means an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “restaurant” shall include a bar area within the restaurant.
- O “Service Line” means an indoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.
- P “Shopping Mall” means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- Q “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing
- R “Sports Arena” means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

Section 15.2-4. Application of Article to City-Owned Facilities.

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the City of Laurel, shall be subject to the provisions of this Article.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15.2-5. Prohibition of Smoking in Enclosed Public Places.

Smoking shall be prohibited in all enclosed public places within the City of Laurel, including but not limited to, the following places:

- A. Aquariums, galleries, libraries, and museums;
- B. Areas available to and customarily used by the general public in businesses and non-profit entities patronized by the public, including but not limited to, banks, laundromats, professional offices, and retail service establishments;
- C. Bars;
- D. Bingo facilities;
- E. Child care and adult day care facilities;
- F. Convention facilities;
- G. Educational facilities, both public and private;
- H. Elevators;
- I. Gaming facilities;
- J. Health care facilities;
- K. Hotels and motels;
- L. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
- M. Polling places;
- N. Private clubs when being used for a function to which the general public is invited;
- O. Public transportation facilities, including buses and taxicabs, under the authority of the City of Laurel, and ticket, boarding, and waiting areas of public transit depots;
- P. Restaurants;
- Q. Restrooms, lobbies, reception areas, hallways, and other common-use areas;
- R. Retail stores;
- S. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board commission, committee or council of the City of Laurel or a political subdivision of the State, to the extent the place is subject to the jurisdiction of the City of Laurel.
- T. Service lines.
- U. Shopping malls.
- V. Sports arenas, including enclosed places in outdoor arenas.
- W. Theaters and other facilities primarily used for exhibiting motion pictures, stage dramas, lectures, musical recitals, or other similar performances.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.6. Prohibition of Smoking in Places of Employment.

CODE

- A. Smoking shall be prohibited in all enclosed facilities within places of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.
- B. The prohibition on smoking shall be communicated to all existing employees by the effective date of this Article and to all prospective employees upon their application for employment.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.7. Prohibition of Smoking in Outdoor Public Places

Smoking shall be prohibited in the following outdoor places:

- A. Within a reasonable distance of 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited, so as to prevent tobacco smoke from entering those areas
- B. On all outdoor property that is adjacent to buildings owned, leased, or operated by the City of Laurel and that is under the control of the City
- C. In, and within 20 feet of, outdoor seating or serving areas of restaurants and bars
- D. In outdoor shopping malls, including parking structures
- E. In all outdoor arenas, stadiums, and amphitheaters.
Smoking shall also be prohibited in, and within 20 feet of bleachers and grandstands for use by spectators at sporting and other public events.
- F. In outdoor recreational areas, including parking lots
- G. In, and within 20 feet of, all outdoor playgrounds
- H. In, and within 20 feet of, all outdoor public events
- I. In, and within 20 feet of, all outdoor public transportation stations, platforms, and shelters under the authority of the City
- J. In all outdoor service lines, including lines in which service is obtained by persons in vehicles, such as service that is provided by bank tellers, parking lot attendants, and toll takers. In lines in which service is obtained by persons in vehicles, smoking is prohibited by both pedestrians and persons in vehicles, but only within 20 feet of the point of service.
- K. In outdoor common areas of apartment building, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities, except in designated smoking areas, not to exceed twenty-five percent (25%) of the total outdoor outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited.

Smoking shall be prohibited in the seating areas of all outdoor arenas, stadiums, and

amphitheaters, as well as in bleachers and grandstands for use by spectators at sporting and other public events.

Source: Ordinance No. 1525-2008, 11-4-08 remembered; Ordinance No. 1628-2015, 11-3-2015

Section 15-2.8. Reasonable Distance.

Smoking is prohibited within a reasonable distance of twenty (20) feet outside entrances, operable windows, and ventilations systems of enclosed areas where smoking is prohibited, so as to insure that tobacco smoke does not enter those areas.

Bars and restaurants with patios and/or outside seating, also known as courtyards, shall be exempt from the reasonable distance of twenty (20) feet as long as the distance of twenty (20) feet is from the main opening entrance of said structure or facility.

Source: Ordinance No. 1525-2008, 11-4-08; Ordinance No.1556-2010, § 15-2.8; 5-4-10

Section 15-2.9. Where Smoking Is Not Regulated

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Sections 5 and 6:

- A. Private residences, except when used as a childcare, adult day care, or health care facility;
- B. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designated. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under the provisions of this Article. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- C. Private clubs that have no employees, except when being used for a function to which the general public is invited. This exemption shall not apply to any organization that is established for the purposed of avoiding compliance with this Article.
- D. Outdoor areas of public places and places of employment except those covered by the provisions of Sections 7 and 8.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.10. Declaration of Establishment as Nonsmoking.

Notwithstanding any other provision of this Article, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of Section 11(A) is posted.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.11. Posting of Signs.

- A. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial

CODE

representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this Article, by the owner, operator, manager, or other person in control of that place.

- B. Every public place and place of employment where smoking is prohibited by this Article shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- C. All ashtrays shall be removed from any area where smoking is prohibited by this Article by the owner, operator, manager or other person having control of the area.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.12. Nonretaliation; Nonwaiver of Rights.

- A. No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment, or customer because that employee, applicant, or customer exercise any rights afforded by this Article or reports or attempts to prosecute a violation of this Article.
- B. An employee who works in a setting where an employee allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer of any other party.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.13. Enforcement.

- A. This Article shall be enforced by the Inspection and Code Enforcement Department or an authorized designee.
- B. Notice of the provisions of this Article shall be given to all applicants for a business license in the City of Laurel.
- C. Any citizen who desires to register a complaint under this Article may initiate enforcement with the Inspection and Code Enforcement Department.
- D. The Fire Department, Inspection and Code Enforcement Department or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Article.
- E. An owner, manager, operator, or employee of an establishment regulated by this Article shall inform persons violating Article of the appropriate provisions thereof.
- F. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.
- G. In addition to the remedies provided by the provisions of this Section, the Inspection and Code Enforcement Officer or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Article may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.14. Violations and Penalties.

CODE

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding Fifty Dollars (\$50.00).
- B. A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of an infraction, punishable by:
 - 1. A fine not exceeding One Hundred Dollars (\$100.00) for a first violation;
 - 2. A fine not exceeding Two Hundred Dollars (\$200.00) for a second violation within one (1) year; and/or
 - 3. A fine not exceeding Five Hundred Dollars (\$500.00) for each additional violation within one (1) year.
- C. In addition to the fines established by this Section, violation of this Article by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- D. Violation of this Article is here declared to be a public nuisance, which may be abated by the Police Department, Fire Department, or Inspection and Code Enforcement Department by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City of Laurel may take action to recover the costs of the nuisance abatement.
- E. Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.15. Public Education.

The City of Laurel shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it, and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.16. Governmental Agency Cooperation.

The City of Laurel shall annually request other governmental and educational agencies having facilities within the confines of the City of Laurel to establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, City, and Laurel School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.17. Other Applicable Laws

CODE

This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.18. Liberal Construction.

This Article shall be liberally construed as to further its purposes.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.19. Severability.

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

Source: Ordinance No. 1525-2008, 11-4-08

Section 15-2.20. Effective Date.

This Article shall be effective thirty (30) days from and after the date of its adoption.

Source: Ordinance No. 1525-2008, 11-4-08

[THE REMAINDER OF THIS PAGE LEFT BLANK]